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HOUSE BILL 19

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Joe Thompson

AN ACT

RELATING TO ANIMALS; CREATING THE CRIME OF COMPANION ANIMAL
HOARDING; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Criminal Code is enacted
to read:

"~~[NEW MATERIAL]~~ COMPANION ANIMAL HOARDING--PENALTIES.--

A. As used in Sections 1 through 5 of this act:

(1) "companion animal" means an animal that is
commonly considered a pet or is considered by the owner to be a
pet. "Companion animal" includes canines, felines and equines;
and

(2) "pet" means a domesticated animal kept for
companionship rather than utility.

B. Companion animal hoarding consists of a person:

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1 (1) possessing over fifteen companion animals;

2 (2) failing to provide necessary nutrition to
3 the companion animals;

4 (3) failing to shelter the companion animals
5 in a sanitary environment;

6 (4) failing to provide necessary veterinary
7 care to the companion animals; and

8 (5) displaying a disregard for the conditions
9 under which the companion animals are living.

10 C. Whoever commits companion animal hoarding is
11 guilty of a misdemeanor and shall be sentenced pursuant to the
12 provisions of Section 31-19-1 NMSA 1978.

13 D. Upon a conviction for companion animal hoarding,
14 the court shall order an assessment of and any necessary
15 psychological counseling or treatment for the convicted
16 offender. The convicted offender shall bear the expense of
17 participating in the psychological counseling ordered by the
18 court.

19 E. Upon a conviction for companion animal hoarding,
20 the court may order that the offender is precluded from owning,
21 harboring or having custody or control of animals or from
22 conspiring with others to maintain or create a collection of
23 animals on the offender's behalf for a period of time that the
24 court deems reasonable.

25 F. The provisions of this section do not preclude

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1 the provisions set forth in Chapter 77 NMSA 1978 from
2 applying. "

3 Section 2. A new section of the Criminal Code is enacted
4 to read:

5 "[NEW MATERIAL] SEIZURE OF COMPANION ANIMALS-- NOTICE. --

6 A. A peace officer or an animal control officer who
7 reasonably believes that the life or health of companion
8 animals are endangered due to companion animal hoarding may
9 apply to the district court, magistrate court or the
10 metropolitan court in the county where the companion animals
11 are located for a warrant to seize the companion animals.

12 B. Except as provided in Subsection E of this
13 section, if the court finds probable cause that companion
14 animal hoarding is occurring, the court shall issue a warrant
15 for the seizure of the companion animals. The court shall also
16 schedule a hearing on the matter as expeditiously as possible
17 within thirty days unless good cause is demonstrated by the
18 state for a hearing at a later time.

19 C. Written notice regarding the time and location
20 of the hearing shall be provided to the owner charged with
21 companion animal hoarding. The court may order publication of
22 a notice of the hearing in a newspaper closest to the location
23 of the seizure.

24 D. If the owner of the companion animals cannot be
25 determined, a written notice regarding the circumstances of the

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1 seizure shall be conspicuously posted where the animals are
2 seized at the time the seizure occurs.

3 E. If a court finds probable cause that companion
4 animal hoarding is occurring, the court may order the owner
5 charged with companion animal hoarding to provide necessary
6 food, water, shelter and care for the companion animals that
7 are the basis of the charge until the charges against the owner
8 are adjudicated. The court may also order a peace officer or
9 an animal control officer to make regular visits to the home of
10 the owner charged with companion animal hoarding to ascertain
11 if the companion animals are receiving necessary food, water,
12 shelter and care until the charges against the owner are
13 adjudicated. At any time, a peace officer or an animal control
14 officer may apply for a warrant to seize the companion animals
15 pursuant to Subsection A of this section if the peace officer
16 or animal control officer feels that the companion animals are
17 not receiving the necessary court-ordered food, water, shelter
18 and care. "

19 Section 3. A new section of the Criminal Code is enacted
20 to read:

21 " [NEW MATERIAL] DISPOSITION OF SEIZED COMPANION ANIMALS. --

22 A. If the court finds that the owner is not
23 committing companion animal hoarding, the court shall return
24 the companion animals to their owner.

25 B. Upon conviction, the court shall place the

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1 companion animals for adoption with an animal shelter or animal
2 welfare organization or provide for the humane euthanasia of
3 the companion animals.

4 C. In no event shall the owner be permitted to
5 adopt the seized companion animals following a conviction of
6 companion animal hoarding.

7 D. An individual who is authorized by the court to
8 care for companion animals, to treat companion animals or to
9 attempt to restore companion animals to good health is immune
10 from civil or criminal liability resulting from his actions. "

11 Section 4. A new section of the Criminal Code is enacted
12 to read:

13 "[NEW MATERIAL] FORFEITURE. -- Within fourteen days
14 following the seizure of companion animals from an owner who is
15 alleged to have committed companion animal hoarding, the state
16 may file a petition for forfeiture prior to trial before the
17 court having jurisdiction over the case. In the petition, the
18 state may request that permanent forfeiture of the companion
19 animals be granted if the owner of the companion animals is
20 alleged to have committed companion animal hoarding and is also
21 proven to have committed cruelty to animals or extreme cruelty
22 to animals as provided in Section 30-18-1 NMSA 1978. "

23 Section 5. A new section of the Criminal Code is enacted
24 to read:

25 "[NEW MATERIAL] COSTS. --

